

DECISION MEMO
LOGAN NORTHERN CANAL RECONSTRUCTION PROJECT
U.S. FOREST SERVICE
LOGAN RANGER DISTRICT
UINTA-WASATCH-CACHE NATIONAL FOREST
CACHE COUNTY, UTAH

DECISION

Based on my review of the Logan Northern Canal Reconstruction Project Environmental Impact Statement (EIS), I have decided to approve a Special-Use Permit (SUP) for that portion of the project occurring on National Forest System land in the Purple Alternative as described in the EIS completed by the Natural Resources Conservation Service (NRCS) and noticed in the Federal Register on September 2, 2011.

Part of the selected alternative is located on National Forest System (NFS) land and therefore requires a SUP for occupancy and use of NFS land. Because of this, the U.S. Forest Service (Forest Service) acted as a cooperating agency during the EIS process. The part of the Logan Northern Canal Reconstruction Project that occurs on NFS land is hereafter referred to as the *analysis area*. The SUP will apply to construction and long-term operation of the Logan Hyde Park Smithfield canal and point of diversion within the analysis area.

The Forest Service adopts the environmental analysis documented in the EIS in accordance with 40 CFR 1506.3 and is not obligated to recirculation of the EIS because Forest Service comments and suggestions have been fully addressed [40 CFR 1506.3 (C)].

Project Description

My decision includes the following elements:

- Move the point of diversion (POD) for some of the Logan Northern (LN) Canal water upstream to the Logan Hyde Park Smithfield (LHPS) Canal POD structure on the Logan River below Second Dam. *The administrative act of moving the POD does not affect NFS land. The change in the water right that would accomplish moving the POD has been approved by the state of Utah.*
- Reconstruct the LHPS Canal POD on NFS land to accommodate an increase in the amount of water that could be diverted, which will allow water to be diverted for LN Canal shareholders and LHPS Canal shareholders.
- Reconstruct the LHPS Canal as a box culvert between the POD and about 1500 North in Logan. About 1 mile of the affected section of the LHPS Canal is NFS land (a segment of about 0.8 mile and a segment of about 0.2 mile; the segments are separated by land that is

privately owned).

The structural features of the selected alternative that would occur on NFS land include the following:

- A modified LHPS Canal POD structure on the Logan River just below Second Dam. This modification is needed to accommodate diversion of as much as 130 cubic feet per second (cfs), hydraulic gates, trash racks, and a fish screen.
- A reconstructed flow gage in the LHPS Canal (the existing gage is just downstream of the POD).
- About 1 mile of new box culvert to convey irrigation water from the LHPS Canal POD. The reach of the canal that is in the analysis area parallels the north side of US 89 in Logan Canyon.

Mitigation

The EIS includes several mitigation measures that apply to the activity requiring the SUP. NRCS adopted all mitigation measures presented in the EIS in its ROD. As part of my decision, I also adopt the following mitigation measures that apply to the analysis area:

- After construction, Cache County or its contractor would use native riparian plants wherever possible as part of routine restoration of the work areas around the LHPS Canal POD.
- Any modifications to the LHPS Canal POD structure will include a device to prevent fish from entering the canals and/or from becoming trapped at the POD structure. The Forest Service will review and must approve the design of the proposed fish-exclusion structure.
- As the canal system operator and USFS special-use permit holder, the Cache Highline Water Users' Association will work with USFS to meet Forest Service Standard S5 by developing a plan to determine a minimum amount of water that will be allowed to flow past the LHPS Canal POD during the irrigation season in order to maintain beneficial uses downstream. The process will require observing the depth of pools in the Logan River below the LHPS Canal POD under various flow rates at and possibly above and below 5 cfs as needed. Monitoring of various flow rates and river response will occur within the first year after the project is completed. After the Forest Service determines the appropriate flow rate, that rate will become a requirement of the special-use permit. The flow that passes the LHPS Canal POD will need to be monitored and reported to the Forest Service by the special-use permit holder(s) in accordance with special-use permit conditions.
- Before the start of construction at the LHPS Canal POD, Cache County or its contractor will prepare a site-specific construction-management plan that addresses how construction near or in the Logan River will take place. The plan will include details about dewatering or temporarily rerouting the river, construction limits near the river, standards for equipment use near the river, and post-construction restoration of disturbed areas along the river. This plan will be reviewed by the Forest Service and approved by

the Utah Division of Water Rights in compliance with a Stream Alteration Permit before construction in or near the river could begin. Cache County or its contractor will define a work zone along the project alignment within which all activity is to take place. The contractor will not remove vegetation or unnecessarily disturb areas outside of the work zone. The defined construction area will be shown on construction plans, and the construction contractor will make sure all workers know the boundary location. Cache County or its contractor will apply best management practices (BMPs) to ensure that construction does not introduce noxious weeds or invasive species or does not cause the spread of existing populations of noxious weeds or invasive species. BMPs will include actions such as bringing in clean equipment, cleaning equipment before it leaves the work area, and using materials that are weed-free.

- To ensure that the known population of Logan buckwheat (*Eriogonum loganum*) is not disturbed during construction, Cache County or its contractor will verify the extent of the existing population before construction begins. This verification will take place when the plant is conspicuous and identifiable. If the verification finds that the population has spread into the expected work area, Cache County or its contractor will work with the Forest Service to develop and implement a plan to protect the population. If the verification finds that the plant is still present but outside the work area, Cache County or its contractor will place protective fences around the population and ensure that work crews avoid the area.
- If construction work occurs during the nesting period for migratory birds (between April 30 and August 31), Cache County or its contractor will conduct a survey for nesting migratory birds in areas to be cleared no sooner than 1 week prior to the start of clearing. If an active nest is found, the nest will be protected from construction activities until the young have fledged. *Please note that Table S-1 and Table 5 8, Summary of Impacts and Mitigation, in the Final EIS incorrectly note the beginning of the period as April 10. The work period is April 30 through August 31 as written in the text of the Final EIS on page 5-115.*
- If work in Logan Canyon occurs in December through February, Cache County or its contractors will coordinate with the Forest Service and/or the U.S. Fish and Wildlife Service to determine if a survey for bald eagles in or near the work zone is needed. If a survey is needed, the results of the survey will determine whether Cache County or its contractor needs to restrict construction times to avoid disrupting any bald eagles that might be roosting along the Logan River.
- In the event of an unanticipated discovery of archaeological materials during construction, work will cease and Cache County or its contractor will contact the NRCS Cultural Resources Specialist (CRS). NRCS will investigate the discovery and would enter into consultation per 36 Code of Federal Regulations (CFR) 800.6 to develop the appropriate methods for treating the discovery. Construction in the area of the discovery might need to be halted throughout this review and consultation process. After a discovery, continuation of work would be contingent on approval by the NRCS CRS in consultation with the Utah State Historic Preservation Officer (SHPO) and other consulting parties.

- The construction contractor will apply BMPs that will reduce construction-related noise impacts. These measures might include restrictions on equipment idling and restrictions on types of equipment in noise-sensitive areas.
- Before starting construction, Cache County and its contractor will develop an air-quality-management plan that identifies dust-control measures for equipment use along the construction corridor, appropriate staging locations and measures to reduce dust at those locations, and potential restrictions (such as idling restrictions and limitations on the types of equipment that could be used) during times when the State determines that the air quality is unhealthy. Cache County or its contractor will communicate its construction schedule with people living, working, and recreating near the construction area so that all potentially affected people are aware that construction activity could temporarily reduce local air quality.
- NRCS will oversee completion of mitigation in support of compliance with Section 106 of the National Historic Preservation Act. Detailed mitigation requirements for effects to resources that are eligible for listing on the National Register of Historic Places is currently in development as part of a Memorandum of Agreement between NRCS and the Utah SHPO. *Note that the Forest Service is acting as a cooperating agency for the Section 106 consultation process.*

Permits, Licenses, Grants, or Authorizations

The decision also requires the following permits, licenses, grants, or authorizations for activity on NFS land:

- CWA Section 404 authorization for modifying the LHPS Canal POD, the LHPS Canal, and LN Canal.
- Compliance with the CWA Section 402 National Pollutant Discharge Elimination System (NPDES) general permit for construction-related stormwater discharges (file a Notice of Intent and compile a Storm Water Pollution Prevention Plan).
- National Historic Preservation Act (NHPA) Section 106 concurrence and memorandum of agreement with the State Historic Preservation Officer (SHPO) for modifying the LHPS Canal POD and LHPS Canal.
- Stream alteration permit from the Utah Division of Water Rights for modifying the POD.
- Antidegradation review by the Utah Division of Water Quality for potential impacts to a Category 1 water (Logan River).
- Construction easement from UDOT for activity that would affect US 89.

BACKGROUND

In July 2009, a landslide occurred along a hillside in the city of Logan in Cache County. As a result of the landslide, a section of the LN Canal, a locally managed irrigation canal, broke away. This landslide and breach have prevented the canal from distributing water and has required the indefinite closure of a section of the canal. This closure affects other parts of the local irrigation water delivery system, with the result that the canal is not delivering all water allocated to local water shareholders.

Cache County requested funding assistance from NRCS through the Emergency Watershed Protection Program (EWPP) to develop and implement a solution to the interruption in water delivery. This federal funding, along with matching funds from project stakeholders, will be used to construct a system that will safely restore delivery of water that was diverted using the LN Canal before the 2009 landslide. The new system would have an operational life of about 50 years.

NRCS issued a Record of Decision (ROD) that identifies the Purple Alternative described in the EIS as the selected alternative on October 3, 2011. Implementation of the decision outlined in that ROD requires occupancy and use of NFS land (for approximately 1 mile of the canal), which requires issuance of a SUP.

Because two of the alternatives studied in the EIS were partially situated on NFS land, NRCS invited the Forest Service to participate in the EIS process as a cooperating agency. The Forest Service accepted and was involved in the development of the draft and final EIS documents. My decision, which is recorded here, is based on information gathered and presented in the project's EIS.

NRCS Project Purpose and Need

As stated in the EIS, the purpose of and need for the canal reconstruction project are to:

- Restore the safe delivery of water that was conveyed by the LN Canal before the 2009 landslide, and
- Address the remaining hazards associated with the landslide zone between about 750 East and 1100 East. *Please note that this area is not on NFS land.*

Since the landslide and subsequent breach of the LN Canal, the amount of water delivered to the LN Canal's shareholders has been greatly reduced. The temporary system used to deliver some water to LN Canal shareholders reduced the amount of water delivered to LHPS Canal shareholders because the LHPS Canal was used to deliver water to shareholders of both systems. Before the landslide, the LN Canal diverted an average of about 60 cfs (cubic feet of water per second) from the LN Canal POD just below First Dam. Since the landslide, the overall amount of both LN Canal and LHPS Canal shares that is being delivered has decreased by about 50%. The temporary system allowed the continued delivery of some water, but all shareholders experienced adverse effects from not receiving their full shares of water. This reduction has affected the financial performance of agricultural production; the irrigation of public lands such as the golf course, parks, and school grounds; and the amount of water available for drinking-water exchanges downstream.

The Need for a Forest Service Decision

The October 3, 2011 NRCS decision to implement the purple alternative requires occupancy and use of National Forest System (NFS) land. The LHPS canal point of diversion (POD) and approximately 1 mile of the LHPS canal occur on NFS land. The purpose and need for my decision is that Title 36 of the Code of Federal Regulations, Part 251 (36 CFR part 251 subpart B) requires a Special Use Permit for occupancy and use of NFS land.

The Revised Forest Plan for the Wasatch-Cache National Forest identifies specific management direction for NFS land. The project team considered management direction articulated in forest-wide goals and sub-goals along with specific standards and guidelines for activity on National Forest System land as it developed the project alternatives and as it completed the impact analyses described in EIS. An overarching guideline for issuing a special-use authorization considered is as follows:

Guideline 81: Before issuing recreation or non-recreation special-use authorizations, ensure that each proposal clearly demonstrates why use of National Forest System lands is necessary and why lands under other ownership cannot be used. Deny proposals for use when the request is based solely on affording the proponent a lower cost or less restrictive location than can be obtained on non-Federal lands, or when reasonable options exist on non-National Forest System lands. Use the process identified in FSH [Forest Service Handbook] 2709.11 to determine whether special use proposals will be accepted for detailed review under NEPA. Provide only for authorizations that meet the tests of prudent, reasonable, and absolutely in the public interest.

As a cooperating agency, the Forest Service was involved in the review of the draft and final EIS. My decision to authorize issuance of a SUP is based on the information gathered and presented in the EIS and the project's consistency with Forest Plan direction.

DECISION RATIONALE

In making my decision to authorize a SUP for the Logan Northern Canal, I have reviewed the Logan Northern Canal Reconstruction EIS and considered the purpose and need, environmental impacts, consistency with Forest Plan direction, and whether all practical means to avoid or minimize environmental harm where adopted. The following paragraphs summarize my decision rationale.

Purpose and Need

My decision to authorize a SUP meets the purpose and need for both the NRCS and the Forest Service. The Purple Alternative studied in the EIS met the NRCS purpose and need to restore the safe delivery of water that was conveyed by the LN Canal before the 2009 landslide and to address the remaining hazards associated with the landslide zone between about 750 East and 1100 East. Selection of the Purple Alternative required a SUP issued by the Forest Service for occupancy and use of NFS land (namely, the canal and POD).

Environmental Effects

The EIS does not identify any significant environmental effects. The major comments received during scoping and review of the Draft EIS focused on the alternatives studied, potential effects to flows in the Logan River, potential effects to other water rights, potential effects to plant and animal life along the existing canals, and potential project effects on quality of life. Chapter 12 of the Final EIS contains responses to all comments on the Draft EIS. I have reviewed the Draft and Final EIS documents and responses to comments on the Draft EIS and have concluded that the EIS addresses the issues raised taking into account cost, regulatory restrictions, and practicability. The selected alternative is the most cost-effective of the action alternatives; can be implemented consistent with the Revised Wasatch-Cache National Forest Plan, EWPP regulations, and other regulatory requirements; and is capable of being constructed in a manner that will minimize effects on NFS land.

The EIS contains mitigation measures intended to avoid or minimize environmental effects. I hereby adopt those mitigation measures presented in the Final EIS that apply to NFS land. These measures are listed under Mitigation above.

Revised Forest Plan for the Wasatch-Cache National Forest

The EIS describes the applicable goals, management prescriptions, and standards and guidelines of the 2003 Revised Wasatch-Cache National Forest Plan. The Forest Service worked closely with NRCS during preparation of the EIS and, as discussed in the EIS, the selected alternative is consistent with the plan. Complete documentation is presented in Chapter 5 of the EIS – *Environmental Consequences* and in Appendix C6 – *Compliance with the Standards and Guidelines in the Revised Forest Plan for the Wasatch-Cache National Forest*. The EIS contains mitigation measures intended to minimize potential project effects on NFS land and that are related to the plan's standards and guidelines. The applicable mitigation measures address Logan River flows, special status species, fisheries, work near the Logan River and associated site restoration, vegetation disturbance, noxious weeds, heritage resources, and community disturbance during construction (applicable as it related to disturbance of recreational use of the Logan River corridor on NFS land).

In conclusion, I have reviewed the 2003 Revised Wasatch-Cache National Forest Plan and, based on the discussions provided in the EIS, I have concluded my decision is consistent with provisions of the plan, including its goals, management prescriptions, and standards, and guidelines.

Management Indicator Species and other Special Status Species

The EIS considers how the selected alternative might affect Forest Management Indicator Species (MIS) and other special status species. Complete documentation is presented in Chapter 5 of the EIS – *Environmental Consequences* and Appendix C5 – *Special Status Species*.

The effects of the alternatives on population trends for Management Indicator Species identified in the 2003 Revised Wasatch-Cache National Forest Plan have been considered. A Forest

botanist, fisheries biologist, and wildlife biologist reviewed and agreed with the EIS findings that the project would not affect population trends for any Wasatch-Cache NF MIS.

Roadless

The analysis area is not in any roadless area described within the Revised Forest Plan. It lies south of the Mount Naomi Roadless Area adjacent to Highway 89 and is outside the roadless area boundary. Therefore, the project would have no effect on any roadless area.

PUBLIC INVOLVEMENT

Scoping

NRCS published a notice of intent to prepare an EIS in the Federal Register on July 22, 2010 (75 FR 42678). This initiated the scoping process, during which the Forest Service confirmed that it would act as a cooperating agency during EIS preparation. The Forest Service attended an agency scoping meeting on July 27, 2010, along with representatives of several other agencies (EIS Chapter 6 – *Section 6.3.3, Scoping Meeting*). NRCS also sponsored a public scoping meeting on August 11, 2010. NRCS noticed this meeting through advertisements in the Logan Herald Journal, Salt Lake Tribune, and Deseret News; announcements on the websites for Cache County, City of Logan, City of North Logan, and City of Hyde Park; announcements posted in local libraries; and an announcement on the NRCS website.

Scoping comments that apply to NFS land focused on the following subjects:

- Alternative selection
- The form of the completed project (closed canal system versus open system and the associated resource effects)
- How the project might affect recreation

A full description of issues relevant to the proposed action appears in the EIS in Appendix A, Scoping Summary Report.

Draft EIS

The project team prepared a Draft EIS and held a public meeting to review the results with the public and ask for comments. NRCS also distributed a press release to local news agencies to announce the availability of the Draft EIS, and EPA published a notice of availability in the Federal Register on March 18, 2011 (76 FR 14969). In addition, NRCS published meeting announcements in the *Herald Journal*, *Salt Lake Tribune*, and *Deseret News*.

NRCS distributed copies of the Draft EIS to cooperating agencies, local agencies, and public libraries. Other interested parties received notices of availability, which included a link to an electronic version of the Draft EIS on the project website.

The Draft EIS was available in electronic format on the project website. The public was able to review the document online, at local public libraries, at NRCS offices (Salt Lake City and Logan), at the Logan Ranger District office, at the U.S. Army Corps of Engineers Utah Office, and at the Cache County office.

NRCS sponsored a public open house to answer questions and collect additional Draft EIS comments on March 31, 2011. People could submit written comments or give oral comments to a comment recorder.

Draft EIS comments that apply to NFS land focused on the following subjects:

- Alternatives that were studied in the EIS
- The form of the completed project (closed canal system versus open system and the associated resource effects)
- Vegetation removal along the canal and how that might affect habitat along the canal
- Potential effects of changed Logan River flows on the river ecosystem

Final EIS

The EPA published a notice of availability for the Final EIS in the Federal Register on September 2, 2011 (76 FR 54767). NRCS also notified the public and other interested agencies of the availability of the Final EIS using the project website, the State of Utah's Resource Development Coordinating Committee, and local newspapers. The Final EIS was available for review online, at local public libraries, at NRCS offices, at the Logan Ranger District office, at the U.S. Army Corps of Engineers Utah Office, and at the Cache County office.

ALTERNATIVES CONSIDERED

In addition to the selected alternative (the Purple Alternative), two other action alternatives and a no-action alternative were considered in the EIS and are summarized below. A more detailed comparison of the alternatives can be found in the EIS in Chapter 3 – *Alternatives*.

No-Action Alternative

Under the No-Action Alternative there would be no physical changes to the LN Canal, LN Canal POD, LHPS Canal, or LHPS Canal POD. Under the No-Action Alternative, NRCS would not distribute funding to Cache County to repair the LN Canal system. The No-Action Alternative would not address the existing landslide area along Canyon Road in Logan

Orange Alternative

The Orange Alternative and the selected alternative (Purple) are the same regarding the occupancy and use of the national forest. The structural features of the Orange Alternative that would occur on NFS land include the following:

- Move the POD for the some of the LN Canal water upstream to the LHPS Canal POD structure on the Logan River below Second Dam (same as the selected alternative).
- Reconstruct the LHPS Canal POD to accommodate an increase in the amount of water that could be diverted, which would allow water to be diverted for LN Canal shareholders and LHPS Canal shareholders (same as the selected alternative)
- Reconstruct the LHPS Canal as a box culvert between the POD and either 2900 North (2900 North option) or 3100 North (3100 North option) in North Logan. About 1 mile of the new box culvert would be on NFS land (same as the selected alternative).

The remainder of the Orange Alternative would re-establish delivery of LN Canal water in a manner which differed from the Purple Alternative. None of the remainder would be on NFS land and has no bearing on the SUP.

Blue Alternative

NRCS chose to evaluate the Blue Alternative as a result of public comments received during scoping. The Blue Alternative would use the existing LN Canal POD just below First Dam. All of the elements of the Blue Alternative would occur off the national forest. This alternative would not have required a SUP.

The Blue Alternative is the only alternative that would restore LN Canal water delivery solely using the existing LN Canal alignment. Because the Logan Bluff area remains unstable, this alternative includes special structural measures intended to address the continued risks to life and property in and near this area. The Blue Alternative would not eliminate these future risks but proposes structural features, management controls, and structural controls that would address some of the risk.

Environmentally Preferable Alternative

NEPA Section 1505.2(b) requires that, in cases where an EIS has been prepared, the Record of Decision identify “alternatives which were considered to be environmentally preferable.” The environmentally preferable alternative is the alternative that causes the least damage to the biological and physical environment; it also is the alternative that best protects, and enhances historic, cultural, and natural resources. The final EIS states that the Blue Alternative is the action alternative that would be the environmentally preferable alternative. See the EIS Section 3.6 for more information on the environmentally preferable alternative.

REASON FOR CATEGORICALLY EXCLUDING THE PROPOSED ACTION

Based on public input, interdisciplinary team review, past experience, and consideration of the environmental analysis, I have determined the effects of implementing this action will be of limited context and intensity and will result in little or no environmental effect to either the physical or biological components of the environment. As such, my decision is categorically excluded from documentation in an Environmental Assessment or Environmental Impact Statement.

The proposed action falls under 36 CFR Part 220 and Forest Service Handbook 1909.15 - Environmental Policy and Procedures Handbook, Chapter 30, Section 31.2 Category 3 – Approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land. The SUP will apply to the construction and operation of approximately one mile of the LHPS canal (less than 40 feet wide). The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances related to the proposed action. There were no significant effects identified for any resource conditions. Findings required by relevant laws and regulations are as follows.

National Environmental Policy Act – This Act requires public involvement and consideration of potential environmental effects. This Decision Notice is in compliance with NEPA and the Council on Environmental Quality (CEQ regulations 40 CFR 1500-1508) for implementing NEPA.

Emergency Watershed Protection Program Regulations and Guidance – The project is being partially funded through the EWPP. The EWPP is administered by NRCS and is subject to regulation described in the Code of Federal Regulations (7 CFR 624). The EIS describes how the selected alternative meets the EWPP regulatory requirements. My decision does not adversely affect NRCS' implementation of the EWPP.

Clean Water Act – The Clean Water Act requires each state to implement its own water quality standards. The State of Utah's Water Quality Anti-degradation Policy requires maintenance of water quality to protect existing in stream Beneficial Uses on streams designated as Category 1 High Quality Water. All surface waters geographically located within the boundaries of the Wasatch-Cache National Forest whether on public or private lands are designated as Category 1 High Quality Water. Any of the action alternatives would have affected the LN Canal and/or LHPS Canal, both of which are non-wetland waters of the U.S. Discharging fill to the canals or to the Logan River would need to comply with the provisions of Section 404 of the Clean Water Act. NRCS expects that any of the action alternatives could be authorized under CWA Section 404 Nationwide Permit, Emergency Watershed Protection and Rehabilitation. Based on the analysis presented in the EIS (EIS, Chapter 5 – *Section 5.3.6, Water Resources*), I have concluded that my decision will maintain water at existing high quality and is consistent with the Clean Water Act.

Executive Order 11990 of May 1977 (Wetlands) – This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that analysis be completed to determine whether adverse impacts would result. As disclosed in the EIS, (EIS Chapter 5 – *Section 5.3.6., Surface Waters*, and *Section 5.4.3.6, Water*

Resources – Construction) the selected alternative would not permanently affect any wetlands in the analysis area. My decision will have no adverse effects to wetlands located within the analysis area and therefore is in compliance with EO 11990.

Executive Order 11988 of May 1977 (Floodplains) – This order requires the Forest Service to provide leadership and take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risk to flood loss, (2) minimize impacts of floods on human safety, health and welfare, and (3) restore and preserve natural and beneficial values served by floodplains. As disclosed in the EIS, the selected alternative would not cross any floodplains (*Section 5.4.3.6, Water Resources*). My decision will have no adverse effects on floodplains located within the analysis area and therefore is in compliance with EO 11988.

Endangered Species Act – This Act directs that all Federal departments and agencies shall seek to conserve endangered, and threatened (and proposed) species of fish, wildlife and plants. This obligation is further clarified in a National Interagency Memorandum of Agreement (dated August 30, 2000) that states our shared mission to “...enhance conservation of imperiled species while delivering appropriate goods and services provided by the lands and resources.”

Based on the information disclosed in the EIS (EIS, Chapter 4 – *Section 4.4.3, Special Status Species* and *Appendix C5 – Special Status Species*) I have determined my decision will not significantly affect populations of endangered, threatened, and candidate species wildlife, aquatic species, or plants. This is because there are no documented occurrences of species protected by the Endangered Species Act in the analysis area and there is no suitable habitat for such within the analysis area. The Utah Division of Wildlife Resources and U.S. Fish and Wildlife Service identify three listed species and two candidates for listing as occurring in Cache County: Maguire’s primrose (threatened) Ute ladies’-tresses (threatened), Canada lynx (threatened), greater sage grouse (candidate), and yellow-billed cuckoo (candidate). There is no habitat near the analysis area for Ute ladies’ tresses, greater sage grouse, or yellow-billed cuckoo. There is habitat for Maguire’s primrose near the analysis area, but there are no populations present within the project work area and the nearest known population is outside of the expected construction work area near the POD. There is also habitat for Canada Lynx upstream of the analysis area, but it was determined that implementation of the proposed action would not affect this species because no populations or habitat exist in the analysis area and because the project would not affect any lynx travel corridors. My decision will have no adverse effect on any threatened, endangered, proposed, or candidate species and therefore is in compliance with the Endangered Species Act (*see Appendix C5 – Special Status Species*).

Wild and Scenic Rivers Act – The Wild and Scenic River Suitability Study for National Forest System Lands in Utah Record of Decision (ROD) and Forest Plan Amendments did not recommend any rivers or segments within the analysis area as suitable for inclusion in the National Wild and Scenic Rivers System. Therefore, there will be no effect and my decision is in compliance with the Wild and Scenic Rivers Act.

Clean Air Act – As described in the EIS (Chapter 5 – *Section 5.4.3.8, Air Quality*) project construction activity could temporarily affect local air quality because of dust and emissions from construction equipment. However, because the project includes mitigation intended to minimize air quality effects, the effects would be temporary, and because the project would not

exceed the National Ambient Air Quality Standards, I have determined there would be no measurable effect to air quality and my decision is in compliance with the Clean Air Act.

Executive Order 13112 (Invasive Species) – This Executive Order directs that Federal Agencies should not authorize any activities that would increase the spread of invasive species. Noxious weed management, if needed, to effectively reduce the spread of existing and new infestations of noxious weeds and invasive plant species would be completed in accordance with the Record of Decision for the WCNF Noxious Weed EIS. Additionally, the EIS (Chapter 5 – *Section 5.4.3.2, Biological Resources – Construction*) includes a mitigation measure intended to prevent the introduction and/or spread of noxious weeds. My decision is consistent with Executive order 13112 and will not increase the spread of invasive species.

Migratory Bird Treaty Act and Executive Order 13186 – The expected effects to protected species are not significant and the project includes mitigation intended to minimize any effect on protected species. Based upon information presented in the EIS (Chapter 5 – *Section 5.4.3.3, Special Status Species – Construction*), I have determined that the decision would be in compliance with the Migratory Bird Treaty Act, Executive Order 13186, and the Bald and Golden Eagle Protection Act.

American Antiquities Act of 1906 and the National Historic Preservation Act of 1966 – The project will affect resources in the analysis area that are regulated under the NHPA (EIS Chapter 5 – *Section 5.3.4, Cultural and Tribal Resources*). Affected eligible resources on NFS land include the POD and canal structures. Potential impacts can be mitigated through data recovery or other mitigation but the effect would still be adverse since the resources will be modified. NRCS will complete mitigation in support of compliance with Section 106 of the National Historic Preservation Act. Detailed mitigation for effects to resources that are eligible for listing on the National Register of Historic Places is currently in development as part of a Memorandum of Agreement between the NRCS and the State Historic Preservation Office. Because the effects will be mitigated consistent with the Memorandum of Agreement with the SHPO, my decision is in compliance with these Acts.

Tribal Consultation and Coordination (Executive Order 13175) - NRCS sought input from tribal representatives during the EIS process. Tribal representatives did not respond to coordination letters. The selected alternative would not affect any known tribal resources.

Prime Farmland, Rangeland and Forest Land (Secretary of Agriculture Memorandum 1827) – There are no designated farmlands within the analysis area. Prime forest land does not apply to lands within the National Forest System.

Executive Order 12898 (Environmental Justice on Minority Populations and Low-income Populations) – This order requires federal agencies to the extent practicable and permitted by law to make achieving environmental justice part of its mission by identifying and addressing as appropriate disproportionately high and adverse human health effects of its programs, policies, and activities on minorities and low-income populations in the United States and territorial possessions.

Background information about the demographics of the study area and potential environmental justice populations is presented in the EIS Appendix C4. In compliance with Executive Order 12898, the NRCS through public involvement efforts attempted to identify interested and

affected parties, including minorities and low-income populations for this project. The project will not cause disproportionate effects to environmental justice populations and my decision is in compliance with Executive Order 12898.


Violating Federal, State and Local Laws – My decision does not violate any Federal, State or local laws or requirements for the protection of the environment.

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

This decision pursuant to 36 CFR 215.12(f) is not subject to appeal and may be implemented immediately.

CONTACT

For additional information concerning this decision, contact: Jennefer Parker, Logan District Ranger, by mail at 1500 East Highway 89, Logan, Utah 84321 or by phone at (435) 755-3620.



CHERYL PROBERT
Acting Forest Supervisor

11-22-11
Date

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